CHANGING OLD

New York Judges Adopt New Phrases in Sentencing Criminals to

Death.

One Mentions Electricity While Another Does Not Refer to the Mode.

Neither Prays For Mercy Upon the Soul of the Unfortnate Whose Body is to be Burned.

Now that burglar McElvaine has been sentenced to death, the judges of this state who are compelled to pass sentence under the law which sends murderers out of the world by electricity will have still another precedent to go by in the form that may be used, says the New York Sun. Since the new law went into effect the old familiar words that the doomed man be "hanged by the neck until he be dead," which have been used from time immemorial, of course disappear. Judge Childs in sentencing Memmler in Buffalo last spring to the death penalty was very careful in the words he used and he was careful to specify that the killing was to be by electricity. The statutes of New York state do not lay down any set form which shall be used in sentencing criminal, but under the old law the courts had dropped into the habit of using a cer-tain phraseology from which there was but little variance. This form is said at the district attorney's office and by prominent criminal lawyers to have been the most

common:

"As you have been found guilty of murder in the first degree it becomes my duty to pass sentence of death upon you, and the sentence of the law and of this court is that you be returned to the prison whence you came, and that thence on Friday, the—day of——, you be taken to the prison yard therein, and there be hanged by the neck until you are dead, and may God have merey on your soul."

It would have been legally correct, said a lawer yesterday, to simply direct that

lawyer yesterday, to simply direct that death be inflicted as prescribed by law, and and this would be sufficient under the pres-ert law. The two judges, however, whose duty it already has been to sentence to elecduty it already has been to sentence to electrical death have deemed it their duty to prepare beforehand a form of sentence. The Sun thought it would be interesting to lay before its readers the verbatim speeches of these two judges, that a comparison might be made between them and the old form which custom had established. Here is the exact wording of the original sentence passed on Kemmier by Judge Childs, of Buffalo, as taken from the minutes of the trial:

'The sentence of the court is that within the week commencing on Monday, the 24th of June, 1889, and within the walls of Auof June, 1889, and within the walls of Au-burn prison, or within the yard or enclo-sure adjoining thereto, the defendant suffer the punishment of death, to be inflicted by the application of electricity as provided by the code of criminal procedure of the state of New York; and that in the meantime the defendant be removed to and, until the infliction of such punishment be kept in soli-tary confinement in said Auburn state

rison."

It will be noticed that Judge Childs specifically refers to electricity as the means of putting Kemmler out of existence.

Judge Henry A. Moore, who presides at the court of sessions, Brooklyn, and sentenced McElvaine on Friday, spent a great deal of care in drawing up the form of sentence he used. With the assistance of the clerk of the court, B. J. York, Judge Moore consulted the law on the subject and consulted the law on the subject and eighed every word in the draft first made before deciding on a form. Court Stenographer Hempstreet furnished the Sun from his minutes the exact words which fell from the lips of Judge Moore. After speaking of the enormity of McElvaine's crime the judge

said:

"The court will proceed to pass upon you the sentence of the law, and that sentence is that you suffer the punishment of death. And the sentence further is that you be taken from the court room to the jail and committed to the custody of the sheriff of Kings county, and that within ten days from to-day, the day of passing the sentence, you be removed by the said sheriff to the state prison at Sing Sing into the custody of the agent or warden of the state prison, and that you be confined in that state prison.

rison, and that you be commed in that state prison.

"And that during the week beginning Monday, December 9, next hereafter and ensuing, you be executed and put to death by the agent or warden of said Sing Sing prison in the mode and in the manner prescribed by the statute or laws of this state, and the readen of that prison is directed and compared to the prison is directed and prison.

the statute or laws of this state, and the warden of that prison is directed and commanded to do the execution according to this sentence and according to law."

Judge Moore does not refer to the method of killing which the state prescribes and leaves McElvaine to look up the law if he doesn't know it already. Neither in Kemmler's nor McElvaine's case was the Almighty invoked for mercy on the criminal's soul.

Just how the sentences will be worded in the future if the law stands will depend upon the opinion of the judges who deliver them. Probably in time they will be crystallized into some generally accepted form which will become as familiar as the one which sentenced a man to the old method of legal killing.

Lawyer George M. Curtis has served a notice of appeal to the court of appeals in the case of McElvaine. The notice acts as a stay of the sentence, and will also probably postpone McElvaine's removal to Sing Sing.

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Helena and Butte ex., Butte and south.	8;15		
Marysville ex	4:10	D.	m
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ARRIVE.			
St. Paul, Atlantic ex., Butte and south	11:25	N.	m
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Helena and Butte ex., Butte and south.	6:30	p.	m
Marysville ex	10:00	24.	m
Manuallla or	8-40	**	795

Northern Pacific.

O. Hatel Y fine	
Through westbound Through eastbound Butte, Missoula and Helena ex. Marysville passenger Rimini accom, Mon, Wed, and Fri Wickes and Boulder passenger Marysville accommodation DEPART	5:00 p. m 10:05 a. m 2:30 p. m
Through westbound	3:15 p.tu

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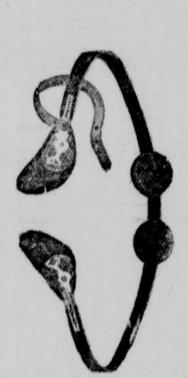
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